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**DECISION**



**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D. C. 20548

FILE: B-197961

DATE: August 25, 1980

MATTER OF: Richard A. Furbish [Real Estate Broker's  
Bonus]

**DIGEST:**

Employee who sold condominium incident to permanent change of station may not be reimbursed broker's selling bonus in addition to 7 percent commission, where commission alone was prevailing real estate fee in area. Statutory provisions of 5 U.S.C. § 5724a(a)(4)(1976) and implementing regulations limit reimbursement to fee customarily charged in locality.

Elizabeth A. Allen, Chief, Accounting Section of the Internal Revenue Service, an authorized certifying officer, has requested our decision whether Richard A. Furbish may be reimbursed \$720. The amount represents a portion of a bonus charged by a real estate broker in addition to a 7 percent commission fee, upon the sale of Mr. Furbish's home. D602804

On November 10, 1976, Mr. Furbish, an employee of the Internal Revenue Service (IRS), was given authorization for relocation expenses, including an allowance for real estate transactions, in connection with his transfer from Suitland, Maryland, to Lakewood, Colorado. Mr. Furbish experienced difficulty in finding a buyer for his condominium home; not until the third attempt at selling it, in December, 1978, did a real estate firm succeed in making a sale, charging Mr. Furbish a 7 percent real estate commission and a \$1,000 bonus.

The IRS has allowed payment of \$1,680, the 7 percent commission charged against the \$24,000 sale price of Mr. Furbish's condominium. At issue is the payment of the broker's bonus, only \$720 of which could be reimbursed due to the 10 percent, or \$2,400 ceiling set on real estate expenses by the Federal Travel Regulations (FTR) (FPMR 101-7) paragraph 2-6.2g (May 1973).

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The statutory authority for reimbursing real estate expenses is found in 5 U.S.C. § 5724a(a)(4)(1976), which provides for reimbursement of expenses of the sale of the residence of the employee at the old station, but limits reimbursement for brokerage fees to the amount customarily charged in the locality. This provision has been implemented by the FTR paragraph 2-6.2a (May 1973), which provides that:

" \* \* \* A broker's fee or real estate commission paid by the employee for services in selling his residence is reimbursable but not in excess of rates generally charged for such services by the broker or by brokers in the locality of the old official station. No such fee or commission is reimbursable in connection with the purchase of a home at the new official station." (Emphasis added.)

Mr. Furbish contends that a 7 percent real estate commission plus a bonus is the customary reimbursement for the sale of a condominium in Prince George's County, Maryland. He has presented as evidence a letter from his broker which, after stating that condominium property is difficult to sell and obtain financing for in the Washington area, concludes that:

"In order to offset these difficulties we have found it necessary to charge a minimum of 7 percent Selling Commission plus offer selling bonuses to attract sales which in many instances is not enough to accomplish our task."

This particular broker's practice of charging a selling bonus does not render such an expense customary. We have consistently held that the regulations require that the amount reimbursed be at the rate charged by all real estate brokers in the area, not the rate charged by the particular broker used by the employee to sell his residence.

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George C. Symons, B-188527, January 26, 1978; Robert W. Freundt, B-181129, August 19, 1974.

Our Office recently accepted the Department of Housing and Urban Development's determination that a 7 percent commission is the customary real estate broker's fee for a condominium sale in the Washington, D.C., area, denying a claim for an 8 percent commission. Calvin T. Westmoreland, B-196517, February 19, 1980. In that case we also rejected the possibility that the real estate fee charged for the sale of a condominium could vary on the basis of uniqueness.

Mr. Furbish also claims that this bonus includes settlement costs which would normally have been reimbursed by the Government had the bonus<sup>not</sup> been paid. We do not agree. Settlement costs were avoided as a result of the buyer's assumption of the existing loan; the payment of a bonus had no bearing upon these costs.

Accordingly, there is no legal authority under which Mr. Furbish may be reimbursed the real estate broker bonus. The reclaim voucher therefore, may not be certified for payment.

For the

*Larry K. Van Cleave*  
Comptroller General  
of the United States